

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT OPERATIONS**

COUNCIL OF THE DISTRICT OF COLUMBIA

PUBLIC HEARINGS

AGENCY BUDGET HEARINGS

FISCAL YEAR 2015



**Testimony of Darrin P. Sobin
Director of Government Ethics
Board of Ethics and Government Accountability**

**Monday, April 14, 2014
10:00 A.M.
1350 Pennsylvania Avenue, NW
Room 412
Washington, D.C. 20004**

Good morning, Chairperson McDuffie and members of the Committee. I am Darrin Sobin, the Director of Government Ethics. With me here today is Robert Spagnoletti, Chair of the Board of Ethics and Government Accountability, or BEGA, and Traci Hughes, the Director of the Office of Open Government. Director Hughes will address you separately. I am pleased to be here today to discuss the Office of Government Ethics' budget needs for Fiscal Year 2015.

As you know, BEGA's mission is to foster high ethical standards for District government employees and strengthen the public's confidence that the government's business is conducted with impartiality, integrity and transparency. The Office of Government Ethics, or OGE, is responsible for administering the District's Code of Conduct; receiving, investigating and adjudicating violations; training District employees on ethics standards; issuing rules and Best Practice reports governing District employees and public officials; administering the financial disclosure and lobbyist registration systems; and providing formal and informal ethics advice.

Fiscal year 2013 was our first full year of operation and I am proud to report that we were fully staffed and fully operational. In fiscal year 2013, we opened 57 investigations, 16 of which were Formal Investigations on intake, and closed 40 investigations. We currently have 10 open investigations. The contested enforcement matters that we have thus far brought to evidentiary hearings have all been successful and have resulted in the imposition of a total of \$22,900 in fines. In addition, in those cases in which we were able to reach a negotiated disposition, essentially a plea by the respondent, we have imposed \$33,050 in fines.

In terms of advice, we have issued a total of 29 formal written Advisory Opinions pursuant to requests, which have been published and posted on our website. The topics for our formal written Advisory Opinions include outside activities such as second jobs, post employment questions, financial interests, and various conflicts of interest issues. We also issued 2 *sua sponte* Advisory Opinions on best practices and several general guidance memoranda that summarize certain ethical standards on occasions like the holidays and election season. During FY 13, we provided informal advice 186 times, by email and by telephone. In FY 14, to date, we have provided informal advice 250 times. Currently, the most common inquiries concern what is permissible under the local Hatch Act regarding campaign-related activities and post-employment questions.

We also have provided more than 50 trainings to District employees. We do a brief training at every New Employee Orientation conducted by the Department of Human Resources, we conduct our full two-hour ethics training at agencies, and we conduct Hatch Act training at agencies. We are in the middle of conducting a series of three Financial Disclosure filing trainings and we are scheduling additional trainings specifically to address post-employment rules.

The Office of Government Ethics also handles all financial disclosure and lobbyist filings. We estimate that we will receive approximately 390 public financial disclosure statements from

public officials, as well as 290 financial disclosure certifications from Advisory Neighborhood Commissioners. Once we receive the financial disclosure statements, we review them to determine whether there is any indication of a possible conflict of interest that requires further inquiry or investigation. In addition, agency heads are required to review confidential financial disclosure statements from their employees and refer to us any that indicate a possible conflict of interest.

In terms of lobbyist filings, all District lobbyists are required to file an annual registration form and two lobbyist activity reports, one in January and one in July, disclosing all lobbyist activities from the preceding six months. In calendar year 2013, we received 294 lobbyist registrations. Of those, we are in the process of pursuing 44 for failure to comply with one or more requirements. In addition, we reviewed the lobbyist activity reports filed in 2013 and contacted 11 filers for additional information or to require them to amend or update their activity reports.

For all of this success, one thing that has become clear over the past year is that we are still not right-sized in our staffing levels. I believe the Mayor's proposed budget goes a long way to addressing this problem in that it gives my Office, OGE, a 13.9 % increase from FY 2014. That increase reflects two additional FTEs. One is for an investigator to assist with our investigations, enforcement actions, and substantive reviews of financial disclosure and lobbyist filings. The second is for an administrative person to assist with the clerical and technical matters related to financial disclosure and lobbyist filings. This would bring OGE up to a staffing level of 11 FTEs.

While we are pleased that the Mayor has proposed the addition of two FTEs, we anticipate needing additional non-personal service funds as well. If you look at the Mayor's budget proposal, it proposes \$129,000 in total NPS funds for FY 2015. Of this amount, \$52,000 is needed for mandatory stipends for the three Ethics Board members, and \$60,000 is designated by law for lobbyist oversight operations. That leaves only \$17,000, which we are expected to share with the Office of Open Government, to cover all office NPS needs for the entire year. This really is a low number, even when just considering office technology, equipment and legal resource needs. But when you add to that potential litigation costs for our enforcement proceedings (i.e., court reporters, transcripts, witness fees), which admittedly are hard to anticipate, I am concerned about a shortfall.

The addition of the new FTEs really will be important not just to our core statutory functions, but will be necessary if we are to meet our own internal performance goals, which, by design, we have set very high. For example, we strive to conduct our investigations in a timely manner, completing them to the point of dismissal, negotiated disposition, or issuance of a Notice of Violation, within 90 days. We have struggled to accomplish this in part because OGE has only two investigators, one of whom serves the dual function of an auditor. As you may recall, our statute contemplates that we would receive referrals of completed investigations from the Office of the Inspector General ("OIG"). This has not materialized as we had hoped. Thus far in FY

2014, we have received only 1 (one) referral from the OIG and that was in October 2013. We have received none in the last 6 months. As a result, almost all of our investigations originate with us and are done internally from start to finish. I am very pleased to add, however, that some of this burden is offset by the collegial and cooperative working relationships we have developed with other law enforcement agencies including the Metropolitan Police Department and the Federal Bureau of Investigation with whom we have conducted joint investigations. The willingness of these agencies to work with us has been very encouraging to me.

In closing, I wish to again thank the Mayor and the members of this Committee for their constant support and assistance in getting BEGA firmly established in the last 18 months. I also want to acknowledge BEGA's talented and dedicated staff for all of their hard work. I hope that we have measured up to expectations thus far.

I am pleased to answer any questions.